



Public Notice

**US Army Corps
of Engineers**
Louisville District

Public Notice No.
200300976

Date:
4 Nov 03

Closing Date:
4 Dec 03

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Ms. Pam Loeffler, CELRL-OP-FS
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: (502) 315-6693

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA).

APPLICANT: Commonwealth of Kentucky
Transportation Cabinet
Frankfort, Kentucky 40622

LOCATION: Johnson Creek and tributaries and tributaries of Bee Lick, Turkey Run and Cedar Creek, along KY-165 between Piqua and Mount Olivet in Robertson County, Kentucky

Latitude: 38-28-17.5732
Longitude: 84-02-57.9223
7.5 Minute Quad: Piqua

PURPOSE: To reconstruct and widen 2.1 miles of KY-165 to address existing horizontal and vertical curves problems for public safety.

DESCRIPTION OF WORK: The proposed project involves reconstructing and widening a 2.1-mile section of KY-165. The attached plan view depicts 22 sites where work would occur for the purpose of constructing the road crossings and/or the road embankment associated with this project. Each site identified in the plan view has been reviewed for permitting requirements, and the following determinations have been made:

Sites 1, 4, 6, 8, 10, 11, 12, 13, 15, 20, 21 and 22 do not encompass jurisdictional waters of the United States. As such, work proposed for these locations does not require authorization under Section 404 of the Clean Water Act.

Sites 2, 3, 7, 9, 14, 16, 17, and 18 are each considered single and complete projects, which qualify for authorization under the provisions of Nationwide Permit No. 14, Linear Transportation Projects.

The following sites require review for an individual Department of the Army (DA) permit.

Site No. 5 (Sta. 164+50 to Sta. 167+20) - Approximately 270 linear feet (lft) of a perennial stream would be relocated to accommodate construction of the proposed road embankment. Earthen material and rock obtained from onsite and used to construct the embankment would be placed into the channel, which would consist of approximately 160 cubic yards (CY) of material below the top of the bank at this location. To mitigate the loss, 270 lft of new channel would be constructed to maintain flow in this stream.

Site No. 19 (Right Sta. 243+50 to Sta. 247+00) - Approximately 225 lft of an ephemeral stream would be filled by approximately 15 CY of earthen material obtained from onsite for the construction of the proposed road embankment. Also, a drainage ditch would be constructed at this location, measuring 499 lft in length, to direct storm water downstream towards the unnamed tributary of Bee Lick Creek.

MITIGATION: The applicant has indicated that the topography of the area does not lend itself to avoiding impacts or appropriate on-site mitigation, other than that mentioned above at Site No. 5. Therefore, they have proposed that any additional stream mitigation that may be required would be in the form of in-lieu fee monies paid to the Kentucky Department for Fish and Wildlife Resources Stream Restoration Program to offset impacts associated with the proposed road project.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA Permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In compliance with Section 401 of the Clean Water Act, the applicant has already applied for State certification and received a Waiver from the Kentucky Natural Resources and Environmental Protection Cabinet Division of Water (KDOW). A copy of the waiver is in the application file for this proposal.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest that might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre-historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preserva-

Operations Division
Regulatory Branch (South)
ID No. 200300976

tion Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, U. S. Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections that are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. All comments regarding this proposal should be addressed to Ms. Pam Loeffler, CEORL-OP-FS at the address noted above and should refer to the Public Notice Number 200300976.